



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

300 Lakeside Drive, P.O. Box 12688  
Oakland, CA 94604-2688  
(510) 464-6000

2013

October 24, 2013

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GENERAL MANAGER

Parker Higgins  
MuckRock News  
Dept MR 6548  
PO Box 55819  
Boston, MA 02205-5819

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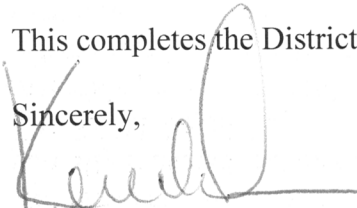
Dear Mr. Higgins,

This is in response to your appeal to the District's decision to deny your California Public Records Act request of August 23, 2013 for documents regarding the application for and award of the \$12.8 million Department of Homeland Security (DHS) Transit Security Grant Program (TSGP) funds for security upgrades to the Transbay Tube.

We have reviewed your request for a "redacted grant application" in regard to the DHS funding of various BART transit security projects. We do not believe that we can do so. While many records held by California governments can be partially redacted and made available to the public, the records in question cannot. The BART Legal Department has reviewed the conditions imposed upon the materials prepared for BART's grant application. They have concluded that the entire record is incapable of being disclosed, in any part, without written permission of the Administrator of the Transportation Security Administration (TSA) or the Secretary of Transportation. Being without legal authority to disclose any portion of the record at this time, we again deny disclosure of any kind for the records in question under Government Code section 6254(f) and (k), Evidence Code Section 1040, and the term of the BART application for TSGP funding which states: "No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation." You are free to make an independent Freedom of Information Act request directly to the TSA or the Secretary of Transportation for the disclosure of the information you need.

This completes the District's response to your request.

Sincerely,

  
Kenneth A. Duron  
District Secretary

cc: Legal Department  
Manager of Security Programs

